



1716 E. Franklin St.
Richmond, VA 23223

www.virginiainterfaithcenter.org
804-643-2474

Strengthening Virginia's Laws Against Wage Theft

Virginia needs to strengthen its laws against wage theft in order to:

- Ensure that workers are paid all their legally-owed wages.
- Level the playing field for employers that do pay workers fairly and compete against unscrupulous employers.
- Strengthen the economy – most workers spend the bulk of their wages and so making sure that especially low-wage workers are paid all their wages stimulates the economy.
- Provide needed government resources by ensuring that all employers are paying their share of payroll taxes, unemployment taxes and workers compensation insurance.

The following bills/proposals are or will be introduced to reform both the Virginia Minimum Wage Act, the law that covers workers not already covered by the federal minimum wage law, and the Payment of Wages Act, which covers workers earning more than minimum wage and issues not covered in the federal law.

Senator Wagner's (R-Virginia Beach) Wage Theft Reform Proposal will:

- 1) Remove some of the "Jim Crow" language.** The law excludes almost every category of worker that was historically held by African Americans from the Virginia Minimum Wage Act. The proposal would remove exemptions for newsboys, shoe-shine boys, babysitters who work more than 10 hours per week, ushers, doormen, concession attendants and cashiers in theaters.
- 2) Remove the exemption on piece work.** Currently, if workers are paid "by the piece," they are exempt from the law. Only one other state still has this exemption.
- 3) Cover all workers.** The bill would expand coverage to businesses of all sizes. Currently, the Virginia Minimum Wage Act only covers businesses with four or more persons employed at any one time. Most states cover all workers.
- 4) Require reasonable attorney fees.** If a worker takes a state minimum wage claim to court and wins, the court shall (instead of may) require the defendant to pay reasonable attorney fees.
- 5) Provide paystub information to workers.** Many workers are cheated of wages because they are not given a paystub or online accounting that shows how they are paid. Some workers are not even quite clear who their official employer is, which makes it almost impossible to file a wage claim if they are underpaid. Employers already must keep this information to file payroll taxes

and other forms. There are simple paystub programs that employers can purchase for approximately \$100. A paystub provision would be added to the Payment of Wages Act.

6) Offer protection against retaliation. Now, if a worker files a wage complaint, the employer can fire the worker with no consequences. This bill would allow the Commissioner of Labor to institute enforcement action if there was a pattern or practice of retaliation under the Payment of Wages Act.

7) Give DOLI the ability to investigate. Under current law, if an employer is cheating 100 workers, but only one files a complaint, DOLI can only investigate that one worker's complaint. Under the Payment of Wages Act, the agency should have the ability to review all the payroll records if there is good reason to believe that multiple workers are being underpaid. The Virginia Employment Commission (VEC) has this investigative ability.

Delegate Habeeb's (R-Salem) Wage Theft Reform Proposal (HB 259) will:

1) Provide paystub information to workers. Same as Senator Wagner's bill.

2) Offer protection against retaliation. Same as Senator Wagner's bill.

3) Give DOLI the ability to investigate. Same as Senator Wagner's bill.

There are several bills proposed to create a "private cause of action" so private attorneys will help enforce the payment of wages laws. VICPP supports the following bills:

- **HB 37 by Delegates Kory (D-Falls Church), Delaney (D-Centreville) and Hope (D-Arlington)**
- **Expected companion bill by Senator Surovell's (D-Fairfax)**
- **HB 551 by Delegate Krizek (D-Alexandria)**

Workers should be able to take their claims to court. If workers are assisted by an attorney and the defendant was found to have cheated workers of wages, the defendants should have to pay reasonable attorney fees. This would potentially reduce the workload for the Department of Labor and Industries (DOLI) because many workers would turn to attorneys instead of filing claims with DOLI. Given that DOLI's wage enforcement staff has been reduced from 20 to 3 in the last decade, having the private bar taking wage cases will help tremendously with enforcement. This is essentially a privatization of the enforcement work. Most federal and state wage claims are handled by private attorneys. Given the wide spread problem of wage theft in Virginia, the state should either dramatically increase DOLI's budget for investigators or it should establish the private cause of action. The Virginia Consumer Protection Act provides for a similar cause of action. If consumers have this right, so too should workers.